

Idaho Board of Health and Welfare
Minutes
May 15, 2008

The Board of Health and Welfare convened at:

Pete T. Cenarrusa Building
450 W. State Street, 10th Floor
Boise, Idaho

Board Members Present

Richard Roberge, M.D., Chairman
Richard Armstrong, Secretary
Dan Fuchs
Quane Kenyon
Janet Penfold
Darrell Kerby
Tom Stroschein
Stephen Weeg
Sara Stover

Staff Present

Richard Schultz, Deputy Director, Health Services
Jeanne Goodenough, Deputy Attorney General
Kristi Matthews, Management Assistant to the Board
Elsie Boyd, Executive Assistant to the Director
Leslie Clement, Division of Medicaid Administrator
Michael Farley, Division of Information Services Administrator
Jane Smith, Division of Health Administrator
Paul Spannknebel, Division of Human Resources Administrator
Heather Wheeler, Div. of Communications and Regional Development Administrator
Christy Colucci, Division of Communications and Regional Development
Jamie Delavan, Bureau of Community and Environment Health
Peg Dougherty, Deputy Attorney General
Ike Kimball, Management Services Deputy Administrator
Sherri Kovach, Rules Unit Supervisor
Randy May, Division of Medicaid Deputy Administrator
Debby Ransom, Facilities Standards Bureau Chief
Elke Shaw-Tulloch, Community and Environmental Health Bureau Chief

Others Present

Brian Benjamin, Deputy Attorney General
Dan Adamson, Northwest Bec-Corp
Ruth Adamson, Northwest Bec-Corp

CALL TO ORDER

Following proper notice in accordance with Idaho Code Section 67-2343 and pursuant to call by the Chairman, the meeting of the Idaho Board of Health and Welfare was called to order by Dr. Richard Roberge, Chairman of the Board, at 8 a.m. Thursday, May 15, 2008, at the Pete T. Cenarrusa Building, 450 W. State Street, at Boise.

ROLL CALL

Richard Armstrong, Secretary, called the roll. Roll call showed eight members present. Absent and excused—Stephen Weeg, who joined the meeting at noon; Senator Patti Anne Lodge, who joined the meeting at 2 p.m.; and Representative Sharon Block. With six voting members present, Chairman Roberge declared a quorum.

PUBLIC COMMENT PERIOD

Chairman Roberge opened the floor for public comment. There being none, the Board advanced to the next order of business.

ADOPTION OF BOARD MINUTES FROM THE MEETING HELD JANUARY 17, 2008

Motion: Quane Kenyon moved for approval of the minutes of the meeting held January 17, 2008.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein--6
Nays: None

Motion carried.

SUBCOMMITTEE REPORTS

Support Services

- A new tool has been implemented on the internal web site of the Department for staff to anonymously submit comments or suggestions to the Director. The Director answers incoming questions and suggestions periodically in Headline News, which is released weekly. To date, 72 comments and questions have been received
- Audio versions of some press releases are being included with print press releases. This provides media with an alternative mechanism for distributing the main message in the press release, provides good sound bites for radio stations, and gives program managers experience with interviews.
- To date, there are 22 rule dockets to go before the 2009 Legislature. Additionally, eight dockets are in various stages of development and may also be ready for presentation next session.
- Preparation is well underway for distribution of the change in employee compensation (CEC) for fiscal year 2009. Performance evaluations have been completed for all 3,400 employees. A matrix has been provided divisions, which assigns an increase of one

percent to all employees with a “meets expectations” performance rating. Additional percentages are assigned based on performance rating, and divisions also receive some discretionary funds. The increases will be reflected on the July 11 payroll.

- Due to increased theft of laptops, or the potential of losing one, the Department implemented a method of encrypting the data on all laptops to protect sensitive data that may reside on those laptops.
- The Medicaid Management Information System (MMIS) is currently on schedule and within the budget requirements established for the project milestones. The completion date for the project is still on target for November 2009.
- The EPICS replacement project has continued to progress with contracted resources from Accenture for identifying changes to be made to the new case management system. The project is on course to be ready for implantation in June 2009.
- The hospital information management system for State Hospital North and State Hospital South, known as vxVistA, has been contracted to Document Storage Systems (DDS). Currently, DSS is implementing four system modules: Admissions, Discharge and Transfer, Pharmacy, Accounts Receivable and Billing, and the Computerized Patient Record System. Implementation is scheduled for system acceptance July 1, 2008.
- The Department finished the FY07 year under budget. As a result the Department reverted approximately \$9.5 million in general funds. The Department projects to be under budget in FY08, projecting a .6 percent surplus. This projection consists of a 1.7 percent surplus in Personnel, a 4.2 percent surplus in Operating, and a .2 percent surplus in Trustee and Benefits. The Department also rescinded \$13.7 million of general funds in the way of a negative supplemental. The FY09 appropriation is approximately \$1.9 billion, an increase of about 7 percent over FY08. The Department’s FY09 appropriation is \$577 million, also an increase of about 7 percent over FY08. The Department received authority for 18 new positions (FTE) in FY09, largely social worker positions in the Child Welfare program. Total FTE authorization for the Department is 3,136.

Family and Welfare Services

- The Division of Welfare is currently meeting federal compliance requirements in all programs except Medicaid eligibility accuracy. Significant progress continues in this area and improvements have been seen in both Family and Adult Medicaid accuracy in the past three years.
- There has been an upward trend of children on Medicaid and food stamps, which is to be expected as the economy declines. There has been no increase in the number of adults receiving Medicaid benefits.
- The Medicaid Child Only Application has been implemented. It is currently being used by Department partners serving children who may be eligible for health coverage.
- The Department received an appropriation to begin the process of remodeling some of the buildings on the campus at the Idaho State School and Hospital for a semi-secure mental health facility in western Idaho. In order to begin the work, the Department has started the process of placing some of the residents into the community; thus far, ten individuals have been successfully placed. Over the next three to six months, ten to twelve more individuals will be placed into the community. An architect has been hired

to prepare plans for the 8-plex structures, which will house some of the disabled residents. The Director met with the Nampa City Mayor and area legislators to advise them the Department is looking at long-range plans for developing the 620 acre property.

- The number of children in foster care has been growing. The Department is carefully looking at reuniting the children with their families and is aggressively working to move children from foster care into permanency.
- The Child Welfare program has recently been reviewed by its federal partner. Seventy-five percent of the targets have been met and a performance improvement plan is being developed to improve four of the seven standards for permanency, safety and well-being.

Health Services

- The primary focus in public health has been the improvement of immunization rates. Idaho has maintained a rate of 68 percent for the past three years (national average is 77 percent). A plan has been developed to increase rates, which includes quality assurance reviews of the 700-plus physician practices receiving vaccine at no charge; focus on improving the use of the immunization reminder recall system, which is the electronic immunization registry available to any provider, and develop a targeted media campaign to motivate parents to get their children immunized.
- In anticipation of a wet spring and thus an increase in the mosquito population and the risk for West Nile virus, the Division of Health will again execute the "Fight the Bite" campaign. Last year, the Department learned the strain of virus in the 2006 epidemic in Idaho had mutated from the strain previously seen across the nation.
- There has been a noted increase in community hospitalization and the associated costs, primarily the result of not being able to get individuals into either of the two State institutions. The average cost of stay at the institutions is going up; the number of new admissions and the length of stay are going down. Due to physician staffing problems at State Hospital South, the Department is managing patient admissions with the number of available medical staff and the ability to provide adequate treatment. This increases new admissions into community hospitals, which have a higher cost than the State hospitals.
- The Department is working to reform the publicly funded mental health system in Idaho, including services paid through Medicaid and those provided through the Adult and Children's Mental Health programs. The focus is on assuring a unified administrative structure under the Divisions of Behavioral Health and Medicaid. To this end, the Department will coordinate the development and management of an integrated public mental health system; assure clinical and service excellence through defined mental health professional licensure, qualifications and clinical requirements for all services; establish strong quality management and improvement processes that emphasize outcomes-based practices and set clear, measurable goals to be achieved; and improve access throughout the state to a comprehensive continuum of mental health services that promote and support the recovery/resilience of the individual. The Division of Behavioral Health is implementing an improvement plan, which will give significant attention to improving the quality of services and providers. The plan provides for the development of formal and ongoing quality improvement and utilization review and management on both a central and regional basis. This process will be aided with

improved data collection processes and the development of reliable systems for administrative and clinical decision support data. Focus is given to strengthening consumer and family involvement in the system. Additional resources will be created at the regional level to support the development of more community support services to improve the continuum of care.

- The Legislature contracted with the mental health program of the Western Interstate Commerce for Higher Education (WICHE) to conduct a review of the mental health system in Idaho and report its recommendations on improvement. One recommendation will deal with the organizational structure of mental health—whether it remain in the Department or is moved to a separate department. That report is due in July. The Department will have an opportunity to respond to that report. Additionally, the Board will most likely have an opportunity to review and react to it.

DIRECTOR'S REPORT

- Director Armstrong had the opportunity to meet with Governor Otter to review the accomplishments and objectives of the Department. This 2-page report could not contain the entire Department accomplishments. It was noted that last year reflected the first time since 1986 the Department has been meeting all of the federal standards for accuracy in benefits programs.
- A number of legislators have expressed concern about the possibility of welfare fraud by polygamists. The Department evaluates household income and is indifferent to marital status to determine eligibility for benefits. It was confirmed one polygamist household in Boundary County, which is a multiple-adult household, is receiving benefits. Households receiving benefits receive random visits by Department staff; if at any point fraud is suspected, notification is provided to a special unit for investigation.
- There have been media and legislative inquiries regarding the certification of a dialysis facility in Hayden Lake. The facility has completed construction and is ready to open its doors to the public to provide service, but is being hampered in doing so by the lack of a Medicare survey. Idaho does not license end stage renal dialysis facilities, they are only federally certified, although the Department performs those certification activities on behalf of Medicare.

Annually CMS provides each state survey agency directions and prioritization of survey activities using a four-tier system. The four tiers reflect federally statutory mandates and CMS policy. Tier 1 work (the highest tier) includes legislatively mandated workload and as such is considered top priority. CMS priorities and policies make complaint investigations, recertifications, and core infrastructure work for existing Medicare providers a higher priority than certification of new Medicare providers. Before planning or conducting any lower tiered work, the survey agency must ensure the upper level work is completed or will be completed by the end of the Federal fiscal year. Initial survey activity for end stage renal dialysis centers is considered Tier 3 work. Failure to meet Tier 1 and 2 work could result in financial penalties against the state agency.

The first the Department was aware of the Fresenius Medical Care Hayden Lake facility was in January 2008. Since then the Department has been working with the

facility to see if there is an access-to-care issue, which would move its inspection to a higher tier. Thus far, access-to-care does not seem to be a factor.

The Department is continuing to work with the regional CMS office and the Fresenius Medical Care. The soonest the certification can occur will be Fall.

PROJECT FILTER

The mission of public health is to promote healthy lifestyles by preventing and controlling disease, injury, and disability. In Idaho, smoking kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

The Tobacco Prevention and Control Program works to create a state free from tobacco-related death and disease. Dubbed "Project Filter," this comprehensive program addresses tobacco use and secondhand smoke exposure through education targeting behavioral, environmental and policy changes.

Project Filter provides statewide coordination necessary for successful tobacco control within these program goals:

- Prevent initiation of tobacco use among youth;
- Promote tobacco cessation among adults and youth;
- Eliminate exposure to secondhand smoke; and
- Identify and eliminate tobacco-related disparities.

Tobacco use is the single most preventable cause of death and disease in our society. Each year, more than 1,500 Idahoans die from smoking-related diseases, an average of four people per day. While 21 percent of all Idaho adults smoke, 25 percent of young adults aged 18-24 smoke. Unless smoking rates decline, 32,000 Idaho teenagers eventually will die from smoking. Annual healthcare costs in Idaho directly attributable to smoking are \$249 million, equivalent to \$188 per person.

Project Filter provides funding and support to health districts, coalitions, and tribes around the state to enact key components of tobacco prevention. It coordinates a statewide media campaign which counters the tobacco industry's pro-tobacco messaging and depicts the consequences of tobacco use.

To promote cessation, Project Filter brought QuitNet, the largest online quit-smoking program in the world, to Idaho. More than 2,000 Idahoans have used QuitNet with the intention of quitting and staying smoke-free. QuitNet helps individual tobacco users quit by providing a one-stop support center that combines elements of a comprehensive cessation program including withdrawal management, support, expert advice, and information on prescription and over-the-counter quitting aids.

The QuitLine offers another cessation option that may fit your lifestyle or specific situation as well. The QuitLine (1-800-QUITNOW) provides private counseling and support, advice on crafting your quit plan, problem-solving advice, skills to help you break old habits, and help deciding which cessation products or medications may be beneficial for you.

Many Idaho district health clinics sponsor local smoking cessation classes. They generally provide guidance from a trained smoking-cessation facilitator, a supportive environment, as well as services and support at little or no cost.

KREG AND DEEANN SPARKS VS. IDAHO DEPARTMENT OF HEALTH AND WELFARE, APPEAL NO. 07-CC092-0309

The Department received notification dated May 14, 2008, from Jannece-Marie Skeen, attorney for Kreg and DeeAnn Sparks, that the appeal of the denial of their foster care license was withdrawn.

SHOSHONE REHABILITATION AND LIVING CENTER VS. IDAHO DEPARTMENT OF HEALTH AND WELFARE, APPEAL NO. 07-CC092-0309

Shoshone Rehabilitation and Living Center (Shoshone) petitioned the Board to review the hearing officer's Findings of Fact, Conclusions of Law and Preliminary Order dated September 6, 2007, affirming the Department's action in placing Shoshone on a provisional nursing facility license and requiring monitoring of its pharmacy program by a nurse or pharmacist.

The Board heard oral argument, with the Department and Shoshone both appearing through counsel. Based upon review and oral argument the Board determined that the hearing officer's affirmation of the Department's denial of a variance request is upheld.

As set forth in oral argument and contained in the record, between November 27, 2006, and December 1, 2006, surveyors from the Department's Bureau of Facility Standards conducted federal recertification and state re-licensing inspections of Shoshone. The Bureau conducted the survey for federal Medicare certification requirements under 42 USC Section 1864 pursuant to a contract with the federal Medicare agency to do certification surveys of Idaho nursing facilities. The survey also assessed whether Shoshone was complying with Idaho state licensing standards found at IDAPA 16.03.02, Rules and Minimum Standards for Skilled Nursing and Immediate Care Facilities. The Bureau's survey team found both federal and state deficiencies relating to Shoshone's distribution of medication and its documentation of medication dosages.

Shoshone's Petition for Review does not contest the deficiencies noted by the surveyors and found by the hearing officer. Instead, Shoshone argues the hearing officer should have utilized the more objective standards of the CMS State Operations Manual regarding immediate jeopardy and had he done so this would have lead to a different result. In making this argument, Shoshone points out that Ms. Todd (State surveyor) testified that the CMS State Operations Manual is the primary training manual for state surveyors. This manual sets up objective deficiency categories based on the scope and severity of the deficiency and defines immediate jeopardy based on the

severity level. Shoshone argues that the hearing officer erred by focusing on the “less than documented” aspects of the IDAPA regulations and the state surveyors’ subjective determination that immediate jeopardy existed. The Petition for Review appears only to assert issues of law contesting the standards the hearing officer used in finding immediate jeopardy to sustain the actions of the Department.

In conclusion, Shoshone’s argument to substitute the CMS Operations Manual standards in lieu of the IDAPA definition for “immediate jeopardy” is not convincing. First, the IDAPA rules do not require a finding of “immediate jeopardy” for the Department to take the actions at issue. Department rules allow the Department to place Shoshone on a provisional license conditioned upon consultation with a monitor for the deficiencies based on the evidence at the hearing substantiating the deficiencies that were found and their potential to endanger the health and safety of any resident. Second, even though a finding of immediate jeopardy was not required, the hearing officer did not err by finding immediate jeopardy existed under IDAPA 16.03.12.003.06, rather than the federal standard set forth in the CMS Operations Manual. The CMS Operations Manual standard is inapplicable to this proceeding and the hearing officer’s finding does not materially affect the Department’s authority to place Shoshone on a provisional license with conditions.

Motion: Quane Kenyon moved that the Idaho Board of Health and Welfare affirm the hearing officer’s decision of September 6, 2007, affirming the Department’s action in placing Shoshone on a provisional nursing facility license and requiring monitoring of its pharmacy program by a nurse or pharmacist.

Second: Janet Penfold

Roll call vote:

Ayes: Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg --6
Nays: Fuchs--1

Motion carried.

RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO, DOCKET NO. 16-0314-0801
(PENDING)

The Department is adding a new section of rules for the minimum design, construction requirements, standards of care, and services for free standing emergency departments. Rules are needed to establish criteria for hospitals operating an emergency department located other than on the hospital campus. This type of facility is called a “Free Standing Emergency Department.” One of these facilities has been constructed in Idaho and others are planned. New rules are needed to ensure these facilities will be regulated in order to protect the health, safety, and welfare of the public.

This rule became effective as a temporary rule January 1, 2008. It was presented to the 2008 Legislature for review and approved to continue as a temporary rule. Upon approval by the

Board, this rule will be presented to the 2009 Legislature as a pending rule, to become final and effective at the conclusion of the session.

Motion: Quane Kenyon moved that the Idaho Board of Health and Welfare adopt as pending, the "Rules and Minimum Standards for Hospitals in Idaho" chapter, as presented in the final proposal under Docket No. 16-0314-0801, with the rules becoming final and effective at the conclusion of the 2009 Legislative Session.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg --7
Nays: None

Motion carried.

MEDICAID UPDATE

Medicaid Modernization was initiated in 2006. It was determined Medicaid was not sustainable in its current form due to the need to balance quality, access, and costs, and in order to pursue more efficient purchasing arrangements. Statute changes defined policy objectives and created three benefit plans. In 2007 the State Plan received federal approval and new rules were approved by the Legislature. Implementation of initiatives began July 1, 2007, and incremental changes continue.

Because of this initiative, the Medicaid budget has held to single-digit growth for the past two years. All participants are in a benefit plan that aligns with their health needs, and incentives are available to encourage good health decisions. Personal responsibility is encouraged through cost-sharing requirements, and efficiencies have been achieved through public/private partnerships.

The Basic Plan currently has 120,000 low-income children and 16,000 working-aged adults enrolled. It is designed to look like a commercial health plan, with emphasis on prevention and wellness. This plan requires the selection of a primary care physician.

The Enhanced Plan is designed for individuals with disabilities. It includes medical benefits of the Basic Plan plus developmental disability services, enhanced mental health services, and long-term care services. It also requires a primary care provider to coordinate care in addition to targeted case management. Current enrollment includes 12,000 children and 20,000 adults.

The Coordinated Plan is designed for individuals with both Medicare and Medicaid coverage. Enrollees have the option to select the Medicare Advantage Plan. It includes all Enhanced Plan benefits if the need is present, and requires selection of a primary care physician to coordinate care. There are 14,000 adults enrolled in the Coordinated Plan.

Division teams have established planning priorities to ensure continued efficiencies.

FAMILY AND COMMUNITY SERVICES UPDATE

Idaho State School and Hospital (ISSH): To facilitate an increasing need for hospital beds to serve the seriously mentally ill, ISSH is transitioning 20 residents to community settings to create capacity at the ISSH campus. To date, 10 discharges have been completed with 10-12 more to be completed over the next 3-6 months.

Intensive Behavioral Intervention (IBI): Improved oversight and quality assurance has resulted in more appropriate utilization of IBI, a therapy serviced designed for children who have autism. During SFY 2007, 604 children received IBI. At the end of April in SFY 2008, 464 children received IBI which will result in an estimated savings of \$1.5 million over a 12 month period.

Child and Family Services Review (CFSR): The Child Welfare program has successfully completed its second CFSR. With 3 sites being reviewed and over 80 cases subject to scrutiny, Idaho demonstrated significant improvement in performance on 75 percent of the items monitored since its last review in 2003.

Adoptions: Idaho received \$68,000 in an adoption incentive from its federal partners for increasing the number of adoptions from the previous year. The additional funds are being used to recruit new adoptive homes from various state and national sources.

Staff Turnover in Child Welfare: Staff turnover for Child Welfare has declined slowly from 20.8 percent in SFY 2006 to 18.6 percent in SFY 2007. That rate will show further decline in SFY 2008 based on vacancy rate indicators during the fiscal year. In SFY 2006, vacancy rates hovered around 7 percent. In SFY 2007, they dropped to 5 percent on average and in SFY 2008, the vacancy rate was 2-3 percent.

Numbers of Children in Care: The number of children in foster care, cost of care, and length of stay has continued to increase in recent years. With closer management of types of care utilized as well as better oversight of lengths of stay, the Child Welfare Program will likely show no increase or perhaps a reduction in the expenditures for children in care though numbers of children served will continue to show an increase.

Timeliness of Permanency and Termination Hearings: Due to problems with court scheduling and legal services to the Department for children in our custody under the Child Protection Act, Child Welfare has been unable to meet some benchmarks associated with timeliness to adoption. Through work with the Supreme Court the Department is poised to be much closer to required benchmarks for timeline measures by summer.

Automation and Technology Improvements: In an effort to streamline work processes to reduce stress of child welfare workers (and thereby reducing staff turn over) associated with completing all documentation tasks, key improvements will be made in the FOCUS automated system to consolidate the number of screens for data entry and to establish easier reporting methods for

case planning and court reports. In addition, dictation technology will be investigated for record keeping, especially for narratives associated with parent and child visits, medical appointments, etc.

Recruitment of Specialty Staff: The Infant and Toddler Program has experienced high rates of turnover and difficulty finding qualified speech, occupational, and physical therapy staff and providers to serve clients in the program. The Division will be looking at a range of options to assist in remedying this issue.

STRATEGIC PLAN UPDATE

The Department Strategic Plan for fiscal year 2009 through 2013 will be submitted to the Governor's office July 1. Current goals will continue, and the plan will be updated to reflect revised dates. Because performance measures are based on the current plan, any modifications would compromise the trend data being collected. Members were provided the Strategic Plan for fiscal year 2008 through 2012 and requested to provide comments or suggestions by the end of May, to be included in the updated plan. Reporting on those goals is due for submission September 1.

ADJOURNMENT

The next meeting of the Board of Health and Welfare is scheduled to be held July 17 and 18, 2008. There being no further business to come before the Board, Chairman Roberge adjourned the meeting at 3:48 p.m.